

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BAYER PHARMA AG, BAYER)	
INTELLECTUAL PROPERTY GMBH,)	
and BAYER HEALTHCARE)	
PHARMACEUTICALS INC.,)	
)	
Plaintiffs,)	
)	C.A. No. 12-517-GMS
v.)	(Consolidated)
)	
WATSON LABORATORIES, INC., et al.)	
)	
Defendants.)	

**DEFENDANTS’ OPPOSITION TO PLAINTIFFS’
MOTION FOR AN AMENDED JUDGMENT**

Plaintiffs’ motion for an amended judgment pursuant to Fed. R. Civ. P. 59 requests, *inter alia*, that the Court order the effective date of approval of Watson’s ANDA under 35 U.S.C. § 271(e)(4)(A) to be a date not earlier than the latest of the expiration of the patents-in-suit, “as well as any applicable exclusivities and extensions.” Defendants respectfully request that, if Plaintiffs’ motion is granted, the Court enter the attached modified Amended Final Judgment Order (Exhibit A), which contains the following modification to Paragraph 5:

Pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any Food and Drug Administration approval of Watson’s ANDA No. 203689 shall be a date not earlier than the latest of the expiration of the ’178 patent (October 31, 2018), the ’206 patent (October 31, 2018), and the ’950 patent (December 23, 2028), as well as any ~~applicable exclusivities and extensions~~ thereto.

Defendants seek this modification to track the language of the statute and because there are currently no such applicable exclusivities.^{1,2} Plaintiffs indicated that they have no objection to Defendants’ proposed modification.

¹ 35 U.S.C. § 271(e)(4)(A) states: “[T]he court shall order the effective date of any approval of the drug or veterinary biological product involved in the infringement to be a date which is not earlier than the date of the expiration of the patent which has been infringed[.]”

Dated: June 7, 2016

PHILLIPS, GOLDMAN, MCCLAUGHLIN &
HALL, P.A.

/s/ John C. Phillips, Jr.

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*Attorneys for Defendant Watson Laboratories, Inc.,
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² Exhibit B provides a “redlined” version of Plaintiffs’ proposed Amended Final Judgment Order showing the modification that Defendants are requesting.

CERTIFICATE OF SERVICE

I, Megan C. Haney, hereby certify that on June 7, 2016, I caused to be served true and correct copies of the foregoing Opposition to Plaintiffs' Motion for an Amended Judgment to the following counsel as indicated:

VIA E-MAIL

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